

Excerpt from "International Law and the World War"  
by James Wilford Garner - Vol. 1

27. TREATMENT OF DIPLOMATIC REPRESENTATIVES  
FOLLOWING THE OUTBREAK OF WAR.

On account of the intense bitterness and excitement which prevailed in some of the capitals at the outbreak of the war, the diplomatic and consular representatives of enemy powers were subjected to discourteous treatment and even to gross indignities, in violation of the customary immunities. Practically all writers on international law hold that diplomatic representatives are entitled by a long-established customary rule of the law of nations to have their diplomatic immunities and privileges respected after the rupture of diplomatic relations and until they have had a reasonable time to withdraw from the enemy country and return to their own land. During this period they are entitled to protection and respect, and it is customary to provide special facilities for their transportation to the frontier of the country from which they are withdrawing. If, of course, a minister insists on remaining in the enemy's country longer than is reasonably necessary for him to withdraw, he loses his diplomatic immunities and may be made a prisoner of war.

(pp 39-40)

解説文庫 第二七二九號  
法廷證第 號

テエームス・ワイルフォード・ガーナー著「國際法と世界戦争」第一卷より  
の抜粹

(二七) 戦争勃發後に於ける外交代表の取扱ひに就いて。

戦争勃發時は或る國々の主帥に師と返つてゐた激烈な悪感情と激昂の爲に敵國の外交、領事各使節は、慣例により受くべき自由に違背せる無禮な待遇及び又は甚しき侮辱さへ受けるはなからなかつた。

國際法に於ける上述は凡て「外交使節は、慣例國際法規の慣例的規則により、外交使節と雖も敵國から引上げて長しへ歸還する迄の相當なる期間中外交官としての自由と特權とを尊重して貢ふ權利がある。」と主張してゐる。此の引上げ期間中に於て彼等は保護と尊敬を受ける權利があり、又引上げんとする國の國境線迄は陸上の特別の便宜が與へられるのか慣例である。勿論若し引上げに必要を相當なる時日以上長く敵國に踏み留まる事を言ひ張る外交使節があるとするは、その時彼は其の外交官としての自由を喪失し得るにされるであらう。(オスワルド・スミス)